

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

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5 In the Matter of:

6 LEHMAN BROTHERS HOLDINGS INC., Case No. 08-13555-scc

7 Debtor.

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10 United States Bankruptcy Court

11 One Bowling Green

12 New York, New York 10004-1408

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14 January 18, 2018

15 9:34 AM

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23 B E F O R E:

24 HON. SHELLEY C. CHAPMAN

25 U.S. BANKRUPTCY JUDGE

1 IN RE: RMBS Claims Estimation Trial

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25 Transcribed by: Dawn South and Sherri L. Breach

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P R O C E E D I N G S

MR. COSENZA: Good morning, Your Honor.

THE COURT: How is everyone?

MR. COZENSA: Great.

THE COURT: Good. Okay. So have a seat. Have a
seat.

So do we have a scheduling final game plan yet?

MR. SHUSTER: Yes, Your Honor. For Monday --

THE COURT: If I missed it, I apologize.

MR. SHUSTER: No. No. No. No. No.

THE COURT: Okay.

MR. SHUSTER: So my understanding is we're to
start Monday at 12:30 and to have lunch before.

THE COURT: Please.

(Laughter)

MR. SHUSTER: And then we will -- we have -- we've
provided to the plan administrator video designations for
Mr. Castro which are about -- up -- no more than an hour in
length, and we're going to still try and cut. But --

THE COURT: Okay.

MR. SHUSTER: And then we expect to put on Mr.
Aronoff in rebuttal for what we think will be about a half
an hour direct.

THE COURT: Okay.

MR. SHUSTER: So --

1 THE COURT: So we're on target to conclude --

2 MR. SHUSTER: We are.

3 THE COURT: -- on Monday?

4 MR. SHUSTER: I have also -- yes. I also --

5 THE COURT: Great.

6 MR. SHUSTER: -- also advised Mr. Cosenza and his
7 colleagues that Mr. Morow (ph) would make himself -- says he
8 will make himself available and San Antonio would be his
9 strong preference for a resumption of his testimony. We
10 haven't engaged on that together yet, but either we'll do
11 that or we won't, I guess.

12 THE COURT: Those would be the --

13 MR. SHUSTER: Subject to --

14 THE COURT: -- two choices.

15 (Laughter)

16 THE COURT: Okay.

17 MR. COSENZA: So, Your Honor, just on Mr. Castro,
18 we got the designations yesterday. We're going to try to
19 exchange, too, with Mr. Shuster any video designations that
20 we think need to be --

21 THE COURT: Sure.

22 MR. COSENZA: -- done contemporaneously. So we'll
23 try to work that out.

24 THE COURT: Okay.

25 MR. COSENZA: I think the schedule for Monday for

1 Aronoff, I think we should complete it by Monday. We were
2 told yesterday of the issues with Mr. Morow. I think we
3 should have a further discussion on that --

4 THE COURT: Sure.

5 MR. COSENZA: -- because I -- I'm not sure if it
6 makes sense to continue Mr. Morow's examination given the --

7 THE COURT: Yes.

8 MR. COSENZA: -- given everything that's been
9 going on.

10 THE COURT: Yeah.

11 MR. COSENZA: But we can talk about that after --

12 THE COURT: Sure.

13 MR. COSENZA: -- we complete Dr. Cornell's --

14 THE COURT: Okay.

15 MR. COSENZA: -- examination.

16 THE COURT: So in any event we are on track to
17 close the record on Monday afternoon.

18 MR. SHUSTER: Yes. Yes.

19 THE COURT: Great. Great. Okay.

20 Terrific. Okay. So what shall we do today?

21 MR. COSENZA: So, Your Honor, the plan
22 administrator as part of our rebuttal case is calling Dr.
23 Brad Cornell.

24 THE COURT: Very good. Okay.

25 (Pause)

1 THE COURT: No. No, sir. Come over here.

2 Good morning. Would you step up? Step up and
3 raise your right hand, please.

4 DR. BRAD CORNELL, WITNESS, SWORN

5 THE COURT: Very good. Have a seat, Dr. Cornell.
6 Make yourself comfortable.

7 If you need a break, please let me know. You
8 don't have to wait till one of the lawyers asks to take a
9 break.

10 THE WITNESS: I was going to say because I'm just
11 getting over bronchitis --

12 THE COURT: Oh, dear.

13 THE WITNESS: -- so I've got a little infirmary up
14 here and --

15 THE COURT: That's --

16 THE WITNESS: -- it may -- it may require me to
17 break for a minute or two to cough --

18 THE COURT: Absolute --

19 THE WITNESS: -- or to go the restroom.

20 THE COURT: Absolutely. Just -- absolutely. Just
21 let us know and in light of that we should probably take
22 some frequent breaks so that you can recover your -- your
23 wind and your voice.

24 THE WITNESS: Yeah. I feel fine. I have no
25 reason I can't testify. But I may sound bad.

1 THE COURT: Okay. Just stay away from all of us,
2 please.

3 (Laughter)

4 THE WITNESS: I shouldn't be infectious at this
5 stage, according to my support who happens to also be a
6 physician.

7 THE COURT: Very good. Okay. All right.

8 All yours, Mr. Cosenza.

9 DIRECT EXAMINATION

10 BY MR. COSENZA:

11 Q Good morning, Dr. Cornell.

12 MR. COSENZA: I think we've already handed up in
13 advance a binder to the Court and to --

14 THE COURT: We have it.

15 MR. COSENZA: Okay. Great.

16 BY MR. COSENZA:

17 Q And you have it, Dr. Cornell?

18 A I do.

19 Q Okay. So I may ask you at points to refer to certain
20 tabs or exhibits that are in your binder --

21 A Sure.

22 Q -- during my examination.

23 So, Dr. Cornell, where are you employed?

24 A Well, three different places. I'm a senior consultant
25 at Compass Lexecon which is an international finance and

1 economics consulting firm, and that's the -- really the role
2 I'm here in today. I'm a professor at the California
3 Institute of Technology, and I run a small investment fund
4 called San Marino Business Partners.

5 Q Okay. And what do you do at Compass Lexecon, Dr.
6 Cornell?

7 A It's primarily litigation related, but I serve as a
8 financial economist in issues related to the one I'm
9 testifying here today and other valuation related issues.

10 Q Sure. And you mentioned that you're a visiting
11 professor at Cal Tech?

12 A Well, it's an odd position. I'm a permanent visitor.
13 Every year we -- it -- since this is New York and you all
14 know what a repo is, we have a repo. Every year --

15 (Laughter)

16 A Every year I automatically revisit and either party can
17 decline the -- you know, the contract at that point.

18 Q Yeah. And --

19 THE COURT: Can they hypothecate you to somewhere
20 else?

21 THE WITNESS: Yeah. That's right. No. There's
22 no -- there's no way to do that. It's a two party.

23 BY MR. COSENZA:

24 Q And what do you teach at Cal Tech?

25 A I teach applied corporate finance and investment

1 banking.

2 Q Okay. And have you held any other academic positions?

3 A Several, but the primary one for many years I was a

4 Bank of America professor of finance at UCLA.

5 Q Okay. And beyond the courses that you've taught at --

6 re-teaching or taught at Cal Tech have you taught any other

7 courses during your academic --

8 A Yeah. Well, many over the years. Corporate finance

9 theory, mergers and acquisitions, securities analysis,

10 corporate valuation, probably others as well.

11 Q And have you held any other consulting positions prior

12 to your time at Compass Lexecon?

13 A Yeah. Originally I started my own firm called Finicon

14 (ph). I then sold Finicon to Charles River Associates and

15 worked with them for a period of time before finally joining

16 Compass Lexecon.

17 Q And you also mentioned that you run your own investment

18 fund; is that correct?

19 A Yes.

20 Q And what type of -- what kind of investments do you

21 focus on? What's your investment funds?

22 A Primarily technology companies. It's kind of related

23 to my interests and of course my association with Cal Tech.

24 Q Okay. And, Dr. Cornell, have you authored any

25 publications?

1 A Yes.

2 Q How many?

3 A Over a hundred articles and two books so far. I have a
4 third book that I'm working on right now.

5 Q What are the two books that you've authored?

6 A There's one on corporate valuation and another on the
7 equity risk premium.

8 Q Okay. And have you ever served as an editor for any
9 professional journals?

10 A Yes. Probably four or five during my time at UCLA
11 primarily.

12 Q And which ones? We don't have to go all of them, but
13 --

14 A The Journal of Finance, Journal of Financial and
15 Quantitative Analysis, Review of Financial Studies and there
16 are several others. I don't really recall which.

17 Q Okay. And can you briefly describe for the Court your
18 educational backgrounds, beginning with college?

19 A I got all my degrees from Stanford University.
20 Undergraduate primarily physics and philosophy; a masters in
21 statistics; PhD in financial economics.

22 Q And have you ever done any work relating to residential
23 mortgage backed securities?

24 A Yes, following the financial crisis I worked on at
25 least four or five major RMBS cases.

1 Q And which cases have you worked on? You don't have to
2 list all of them, but generally some of the major --

3 A Well --

4 Q -- ones?

5 A -- I worked as an expert in the Citibank settlement. I
6 worked on the Rescap bankruptcy. I worked for Moody's (ph).
7 I worked for IndiMac. Those are the main ones that I
8 recall. There was one from Goldman Sachs.

9 Q Okay. And you mentioned Rescap. Can you just describe
10 generally what your work was in that matter?

11 A Well, in Rescap the primary focus of my work was to
12 measure the -- if a loan had material defects in its
13 underwriting and subsequently declined in price, how much of
14 that decline was due to the defects as opposed to general
15 economic conditions such as falling housing prices and
16 recession.

17 Q And you also mentioned you worked on the Citigroup
18 matter. Can you describe generally what you did in the
19 Citigroup RMBS matter?

20 A I evaluated for the trustees whether or not it was
21 reasonable for them to accept the proposed settlement?

22 Q Okay. And in connection with these and other matters
23 have you testified in court before?

24 A Actually not in Rescap or Citibank --

25 Q Yeah.

1 A -- but I've testified in court probably more than 50
2 times.

3 Q Okay.

4 MR. COSENZA: So, Your Honor, pursuant to Federal
5 Rule of Evidence 702 I am tendering Dr. Brad Cornell as an
6 expert in structured finance and valuation with respect to
7 residential mortgage backed securities.

8 THE COURT: Okay. Any objection?

9 MR. HEIDLAGE: No objection, Your Honor.

10 THE COURT: All right. Very good.

11 BY MR. COSENZA:

12 Q So, Dr. Cornell, you were given some assignments in
13 this case?

14 A Yes.

15 Q And can you describe generally for the Court, I think
16 there's a slide, PA Exhibit 978. Is this an accurate
17 summary of the assignments you were provided in this -- in
18 this matter?

19 A Yes, it is.

20 Q Okay. Do you -- do you want to describe for the Court
21 what your two primary assignments were here?

22 A Sure. The language says it pretty well. I -- my first
23 task was to perform an independent economic analysis to
24 estimate the aggregate claim value of the non-terminated
25 trust covered loan claims using the trustees' purchase price

1 calculations.

2 Q And that was your first assignment?

3 A That was my first.

4 Q What was your second assignment?

5 A My second was to work with the plan administrator to
6 design four estimation scenarios that illustrate how often
7 the trustees need to succeed on their claims in order to
8 achieve an aggregate claim value of approximately \$2.38
9 billion.

10 Q Dr. Cornell, were you asked to make any assumptions in
11 connection with the portions of these two assignments?

12 A Yes, I was.

13 Q Okay. And are these assumptions reflected in the slide
14 that you helped prepare?

15 A Yes, they are.

16 Q And is this slide PA Exhibit 979; is that the summary
17 of the assumptions you used --

18 A Yes, it is.

19 Q -- in connection with your assignments? Can you
20 explain the first assumption to the Court in connection
21 where you -- to what your assignments?

22 A Well, to -- the first is to the extent that the
23 trustees meet their burden of proof and, therefore, can
24 recover damages on loans at issue in this case that I would
25 use the purchase price as proffered by the trustees in order

1 to compute a measure of loss.

2 However, in doing that I wasn't offering any opinion
3 that that measure of loss was, in fact, the appropriate
4 legal measure of damages. I was just doing the calculation.

5 Q Okay. And what was your second assumption, Dr.
6 Cornell?

7 A That the plan administrator had bases to preclude the
8 recovery of damages in connection with certain non-
9 liquidated and on hold loans.

10 Q And that's reflected -- the second assumption is
11 reflected in some of the estimation scenarios we're going to
12 discuss later?

13 A Yes, it is.

14 Q And what was the third assumption you were --

15 A That the plan administrator provided success rates for
16 the trustees meeting their burden of proof for each category
17 of breach claim.

18 Q All right. And the next assumption?

19 A And I should add that those success rates are going to
20 feed into my four scenarios analysis.

21 Q Sure. And that's part of your second assignment?

22 A That's right.

23 Q Okay. And same for your second assignment. The fourth
24 assumption listed here?

25 A The plan administrator also provided success rates for

1 the trustees meeting their burden of proof with regard to
2 AMA.

3 Q Okay. And there's a fifth assumption listed there and
4 do you just want to describe briefly for the Court what the
5 fifth assumption reflects?

6 A Yeah. This one is a little more tricky. I'll explain
7 it more when we actually get -- get there. But that for
8 many of the loans there's more than one breach claim. So if
9 there's more than one breach claim you have to say, well,
10 how likely are the trustees to get over all the -- to get
11 over one of the breach claims which is enough to move to the
12 next level. And that depends on whether the breach -- the
13 success rates are correlated or not. I'm going to assume
14 they're not and I'll explain why I think that's conservative
15 for the trustees at the time we get to the calculation.

16 THE COURT: Can I -- can I ask a question on this?
17 So for three and four the assumptions were provided to you.
18 Is what you're telling me is that for five that assumption
19 was not provided to you; that was an assumption that you
20 used and concluded was appropriate?

21 THE WITNESS: Well, I actually proposed that one,
22 discussed it with the plan administrator and they agreed to
23 use it.

24 THE COURT: Okay.

25 THE WITNESS: But it wasn't one that was just

1 given to me the way three and four were.

2 THE COURT: Okay. Thank you.

3 BY MR. COSENZA:

4 Q So, Dr. Cornell, you provided I believe three expert
5 reports in this matter?

6 A Yes.

7 Q And the first one was issued on June 1, 2017, correct?

8 A Correct.

9 Q Okay. And so we're now going to go to your first
10 assignment and walk through generally the numbers and the
11 loans at issue as of June 1st and walk through to the loans
12 at issue as of your last expert report.

13 So let's start with your first opinion based on your
14 first assignment. Have you prepared a demonstrative that
15 summarizes the loans with compensable claims as of June 1,
16 2017 when you issued your initial report?

17 A Yes.

18 Q And is this your PA -- let's see here. It's Tab 3 in
19 your binder, PA Exhibit 980, the demonstrative that you
20 prepared that identifies the mortgage loans with compensable
21 claims as of June 1?

22 A Yes.

23 Q Okay. So these -- can we just walk through this
24 demonstrative, Dr. Cornell, and starting with the first row,
25 claims submitted by the trustees. And do you see the 94,566

1 loans. You just want to start with that and explain to the
2 Court how you derive the loans with compensable claims as of
3 June 1, 2017?

4 A Well, I started with that which was the total number of
5 claims submitted and then removed various categories for
6 various reasons.

7 The first group, for example, that I removed are things
8 that I don't think are in dispute, that the loans were
9 either rescinded, or the trustees accepted the plan
10 administrator's rebuttal, or the trusts were terminated and
11 so forth.

12 Q And you also see .4. There were also 723 loans that
13 were paid in full? Do --

14 A Yes.

15 Q -- you see that?

16 A So --

17 Q That's another category of loans that were removed from
18 the 94,566?

19 A Yes.

20 Q Okay. And then that leaves you with the at issue
21 mortgage loans as of June 1, 91,151?

22 A Correct.

23 Q Okay. And then what did you do next in order to get to
24 the total number of loans with compensable claims as of June
25 1?

1 A I removed at issue mortgage loans that the plan
2 administrator believed did not have sufficient documentation
3 to be able to review the loan.

4 Q And those are described later on this chart, the
5 category of on hold loans?

6 A They're called on hold loans. Yes. And this -- this
7 was an area of potential dispute --

8 Q Sure.

9 A -- unlike the previous group that I removed.

10 Q So that gets you down to remaining mortgage loans
11 61,112?

12 A Correct.

13 Q And then what did you do next to the -- to the loan
14 population?

15 A I removed those mortgage loans where experts for the
16 plan administrator, either the re-underwriters or RBF
17 claimed that the breach claims would not hold up, were
18 rejected or that the loans would not be AMA. And that
19 removed a total of 60,055.

20 Q Okay. And then you took the 61,112 and subtracted out
21 the 60,055 that were rejected by the plan administrator
22 through its re-underwriting firm and RBF to get to a new
23 total?

24 A That's correct.

25 Q Okay. And what was -- what's that total?

1 A 1,057.

2 Q Okay. And you added back in 63 loans. Why did you do
3 that?

4 A Because the plan administrator approved them in step
5 three of the protocol.

6 Q So as of June 1 what was the total number of mortgage
7 loans with approved claims, compensable claims?

8 A 1,120.

9 Q Okay. And this -- so you have not yet applied the
10 purchase price calculation to those loans. You took one
11 additional step?

12 A Correct.

13 Q And what was that, Dr. Cornell?

14 A Well, the plan administrator believes that on certain
15 non-liquidated loans the -- there's not sufficient
16 documentation to accurately compute a net purchase price.
17 So I set to zero the damages on those loans so effectively I
18 subtracted those 44 loans out.

19 Q Sure. So now you have -- for the universe of loans
20 that have mortgage loans with compensable claims as of June
21 1, 2017 what was the total?

22 A The total amount of loans was 1,076 with an aggregate
23 claim value of \$236.8 million calculated using Dr. Snow's
24 prices.

25 Q Okay. And initially in your June 1st report you had

1 included an offset for servicer related issues?

2 A Yes, I had.

3 Q And did you -- what did you -- so what -- the initial
4 report, what was the number of that when it's initially
5 reported as the amount aggregated claim value as of June 1?

6 A I think it was 232.6. But subsequently I learned that
7 that servicer issue was going to be dropped so I put the
8 amount back in to get the 236.8.

9 Q All right. So -- and you mentioned earlier in the
10 initial slide, when we were talking about your assumptions,
11 that you made an assumption with respect to the purchase
12 price. Could you just describe again for the Court what
13 that assumption was?

14 A The assumption was that I used Dr. Snow's purchase
15 price and here that's all I've used because I'm not doing
16 any non-liquidated loans.

17 Q And are you opining as to whether it was appropriate to
18 use the purchase price as calculated by the trustees as the
19 input for calculating damages in this case?

20 A No. I'm just -- I'm using it, but I'm not saying that
21 it's in my opinion necessarily the proper measure of
22 damages.

23 Q And do you have an understanding of the components of
24 the purchase price as calculated by the trustees and Dr.
25 Snow?

1 A Yes.

2 Q And what do you understand the components are?

3 A It has three components: Unpaid principal balance,
4 unpaid and accrued interest, and advance servicer fees.

5 Q Do you understand that there's some components of that
6 calculation that still remain at issue even if we were to
7 use the purchase price?

8 A Yes. As we discussed at my deposition whether or not
9 the interest components should be in there is apparently a
10 legal question in dispute.

11 Q Okay. And after you submitted your report on June 1,
12 2017, you understand that there were then additional changes
13 to the loan population?

14 A Yes.

15 Q And the loan population for which there's -- there
16 would be an aggregated claim value for --

17 A Yes.

18 Q -- actual claims?

19 A That's correct.

20 Q And did you prepare a slide summarizing those changes?

21 A Yes, I did.

22 Q And is that slide reflected in PA Exhibit 981 which is
23 Tab 4 in your binder?

24 A Yes, it is.

25 Q Okay. And could you describe for the Court what

1 happened to the loan population after June 1, 2017 when you
2 issued your initial report?

3 A Well, it starts with my 1,076 loans from the previous
4 slide.

5 Q And there were certain loans that were removed. Do you
6 know why they were removed?

7 A Yeah. They were -- the trusts were terminated or the
8 -- the claims -- the loans were withdrawn and that was 78
9 loans that came out, but in -- on the plus side the
10 additional mortgage loans were approved by the plan
11 administrator of 221. So I take out the 78, add back the
12 221, and I get up to 1,219 loans with what I call
13 compensable claims.

14 Q Okay. And did you then calculate using Dr. Snow's
15 numbers the aggregate -- the claim value for those 1,219
16 loans?

17 A I did.

18 Q And what was that?

19 A 278.1 million.

20 Q Okay. I think we mentioned earlier there were 44 non-
21 liquidated loans that you initially removed from your
22 purchase price calculation in your June 1st report?

23 A Correct.

24 Q And you also did a calculation if you were to include
25 those 44 loans, correct?

1 A Right. If I add those back in I get up to 1,263 loans,
2 and using Dr. Snow's net purchase price for the 44, the
3 total comes to 301.8 million.

4 Q So these numbers here, the 278.1 million and the 301.8
5 million, these reflect the completion of your -- the first
6 assignment you were given in connection with your expert
7 work here to calculate the compensable claim based on, you
8 know, the loan population at issue as of the end of August?

9 A Yes.

10 Q And those numbers are 278.1 to 301.8 million?

11 A Correct.

12 Q And the variable is whether or not you include the 44
13 non-liquidated loans in your calculation?

14 A That's right. That explains the difference between the
15 two.

16 Q Okay. So, Dr. Cornell, I'm going to move now to your
17 second assignment in this matter. And I know we touched
18 this -- touched on this earlier, but maybe you can describe
19 again what your second assignment was in this case.

20 A Well, to design four estimation scenarios that
21 illustrate how often the trustees need to meet their burden
22 of proof in order to achieve an aggregate claim value of
23 approximately \$2.38 billion.

24 And let me explain that this is somewhat of a reverse
25 engineering exercise that the plan administrator worked with

1 my team because we had a program that allowed us to compute
2 the -- I'll use the word damages even though I'm not opining
3 that it's necessarily damages. But if we just keep the
4 presentation simpler, to compute the damages given inputs of
5 probabilities of success for the trustees.

6 And so the plan administrator and my team worked
7 together and came up with a set of assumptions for success
8 rates that would lead to an aggregate damages of about 2.38
9 billion or less.

10 Q And, Dr. Cornell, what was the impetus -- I know -- I
11 think you put together a slide explaining the reasons why
12 you did this analysis as part of your reply report. Do you
13 just want to describe for the Court what the impetus was for
14 you working on your -- including this in your reply report?

15 A Sure. Well, when I got my -- when I got the replies to
16 my initial report I noticed several things. First was the
17 trustees had withdrawn another 15,107 loans. So now my
18 numbers are going to be out of date, so I have to update
19 those.

20 Second, the trustees criticized my affirmative expert
21 report primarily because I just based it on the assumption
22 that the plan administrator would win on its claims as to
23 what loans should be compensated.

24 And, third, there were obviously large differences in
25 the aggregate claim value estimates between the trustees and

1 the plan administrator so we hit upon the idea of finding
2 out what success rates would give you a number in the middle
3 closer to the \$2.38 billion.

4 Q So as a result of these criticisms you were asked to
5 design the estimation scenarios you described generally at
6 the onset of your examination?

7 A Yes.

8 Q And have you prepared a demonstrative that shows your
9 identification of the disputed loans to which you applied
10 the four estimation scenarios?

11 A Yes.

12 Q I would just refer you to Tab 7. I think it's PA
13 Exhibit 984. Is this the summary that you put together
14 identifying the disputed loans?

15 A It is. Yes.

16 Q Okay. So, again, we start -- we just want to walk
17 through the part, again, we're starting with the 94,566
18 loans that were submitted into protocol. We just want to
19 walk through these various categories as to how we got to
20 the disputed loan population.

21 A Well, the 94 and the 91 come right off the previous
22 slide that I had. So what's new here is there's 15,107
23 removed by Aronoff so that gets me down to 76,044. And then
24 there were added removals due to terminated trusts and
25 withdrawn trusts. That takes out 146 and 283. And then

1 there were loans that paid in full after the Aronoff report
2 of June 1, so those come out. And then I take out the ones
3 where the plan administrator agreed the loans should be paid
4 so they -- they are not in dispute. So those come out.

5 When I take all those out I get 71,663 loans of which
6 there's still an ongoing dispute as of the time of this
7 analysis because I understand there's been more removals
8 since, so in some sense this may have to be updated if you
9 want it to be totally current.

10 Q Sure. So, Dr. Cornell, just to take a step back, the
11 removed loans not in dispute, this 1,263, that's what was
12 reflected on your earlier slide in terms of loans that have
13 been approved by the plan administrator?

14 A Yeah.

15 Q And that's the -- the numbers --

16 A If you want to go back a couple of slides you'll see
17 that number --

18 Q Yes.

19 A -- and that will --

20 Q So the loans that are in dispute, the 71,663, I think
21 you just mentioned that that loan population is continuing
22 to change. You know, why are they -- why is the loan
23 population continuing to change?

24 A Same reason. The things are being withdrawn or trusts
25 are terminating or loans are being paid off. So it's a

1 moving target.

2 Q Okay. But as of the end of August, August 28th when
3 you submitted your reply report this was the number of loans
4 that were at issue?

5 A That's right.

6 Q Okay. So after you identified the disputed loans at
7 issue, what did you do next?

8 A Well, the plan administrator and their counsel then
9 gave me success rates that had come out of their joint work
10 with my support team to run through the model.

11 Q Yeah. And the success rates -- do you understand how
12 the success rates were derived?

13 A Well, like I say there was joint work between my -- my
14 team, counsel for the plan administrator and the plan
15 administrator. The plan administrator using their knowledge
16 of, you know, the different types of claims and their legal
17 strafe and us providing the software and the -- they
18 developed the schedule that, if we go to the next slide,
19 that is shown here.

20 Q And this is a demonstrative that you created showing
21 the success rates that you applied depend -- based on claim
22 category?

23 A Yes. The claims were bucketed into 12 categories and
24 then there were success rates for both the breach claim and
25 the AMA for each of those categories.

1 Q Okay. And to be clear the breach claim success rate
2 and AMA success rates, who provided those -- those success
3 rates to you, Dr. Cornell?

4 A I got them from counsel for the plan administrator.

5 Q Okay. And just to walk through what does the claim
6 category, you said there were 12 categories, what does that
7 represent?

8 A It represents loans for which there was a claim of that
9 type. So in Category A would be any loan where there was a
10 claim of misrepresentation of income.

11 Q Okay.

12 A And B would be any loan where there was a claim of
13 misrepresentation of debt. And some loans can go into
14 several categories because there may be multiple claims.

15 Q Okay. And moving to the next column, breach claim
16 success rates, could you just describe what -- what that
17 column represents for the Court?

18 A That is the probability that any claim of that type,
19 the trustees will meet their burden of proof and be
20 successful in their legal claim.

21 Q So for claim categories A through G here, your scenario
22 assumed that the trustees would succeed at the breach level,
23 the breach claim level 40 percent of the time?

24 A Correct.

25 Q Okay. And moving on to the next column, what does the

1 adversely and materially affects or AMA success rate column
2 tell us?

3 A It gives you the probability that the trustees will
4 succeed in proving that the breach had an adverse and
5 material affect.

6 Q And just looking at, again, why don't we look through
7 misrepresentation of income of debt and excessive DTI and
8 misrepresentation employment claims and misrepresentation of
9 assets claims, could you explain to the Court how the AMA
10 success rates worked?

11 A Well, there's a little complication here because it's
12 well known that the seasoning of a loan affects whether or
13 not a defect is likely to impact that loan. As people pay
14 more and more it becomes less and less likely that any
15 original defect is going to affect the loan.

16 And this is one way to adjust for that. So you see
17 that if the loan has been paying -- let's take the first
18 one, misrepresentation of income. If the loan has been
19 paying for less than 18 months it assumes that the trustees
20 are going to succeed 50 percent of the time because it's
21 more likely that the breach had an effect early on.

22 But after 18 months they -- and beyond, however far
23 beyond, the succeed only 15 percent of the time.

24 THE COURT: Can I -- I need to understand this.

25 MR. COSENZA: Sure.

1 THE COURT: So all these loans were originated a
2 long time ago?

3 THE WITNESS: Yes.

4 THE COURT: So is everything in the 15 percent
5 category?

6 THE WITNESS: No. It would be at the time that
7 the claim was made how many months had they been paying.

8 THE COURT: At the time the claim was made, so for
9 our purposes that's the date that the trustees filed their
10 proof of claim? I'm just trying to determine --

11 THE WITNESS: You know --

12 THE COURT: -- if the --

13 THE WITNESS: -- that's a -- that's a good
14 question. And I'm not a hundred percent sure myself. I
15 don't know if --

16 THE COURT: Okay. Mr. Cosenza, I'll leave it to
17 you, but I just need to understand --

18 MR. COSENZA: Yeah. No. I'm going to --

19 THE COURT: -- exactly what his --

20 MR. COSENZA: Can we just go through --

21 THE COURT: -- assumption is.

22 MR. COSENZA: I just want to go through --

23 (Pause)

24 THE WITNESS: I even have even more medication.

25 THE COURT: Do you?

1 THE WITNESS: No. No. I just -- your reporter
2 just gave me something new.

3 THE COURT: Oh. I have --

4 THE WITNESS: I have -- I have all sorts of stuff.

5 THE COURT: I have some good stuff up here, too.

6 MR. COSENZA: I'm trying to direct him to the --

7 THE COURT: We can come back to it, Mr. Cosenza.

8 I don't --

9 MR. COSENZA: Yeah. I --

10 THE COURT: -- mean to derail your --

11 MR. COSENZA: -- I think it's addressed in his --

12 THE COURT: -- examination.

13 MR. COSENZA: -- report. I just wanted to refer
14 him to his report --

15 THE COURT: Sure. Not a problem.

16 MR. COSENZA: -- but I -- it's -- it's basically
17 18 months from origination. But I'll go through the report
18 --

19 THE COURT: Okay.

20 MR. COSENZA: -- and get to that.

21 THE COURT: All right. Mr. Cosenza, I would like
22 to hear from the witness.

23 MR. COSENZA: I understand.

24 THE COURT: Okay.

25 THE WITNESS: And I'll have to check that. If we

1 have a break I can probably look and --

2 THE COURT: Okay.

3 THE WITNESS: -- get back to you.

4 THE COURT: I'm going to throw it back to you, Mr.
5 Cosenza.

6 MR. COSENZA: Sure.

7 (Pause)

8 BY MR. COSENZA:

9 Q Dr. Cornell, did you do anything to test the success
10 rates that the plan administrator provided to you?

11 A Well, other than noting that I thought that seasoning
12 is an important factor because I've done some previous
13 research on that, I didn't do anything else.

14 Q Okay. And, Dr. Cornell, you mentioned very earlier
15 your last assumption in terms of claim correlation, that you
16 made an assumption with respect to claim success
17 correlation. What was that assumption? If you could
18 describe in more detail for the Court.

19 A Well, let me take an example. That's always the
20 easiest thing for me where there are three different claims.
21 So let's say that a particular loan is in all the top three
22 buckets, misrepresentation of income, misrepresentation of
23 debt, and excess DTI. So I assume that the trustees
24 basically have three independent bites at the apple.

25 So if they have a 40 percent success rate that means

1 they have a 60 percent failure rate. So they have a 60
2 percent chance of failing on A, B or C. But if they're all
3 independent their chance of failing on all three is .6 times
4 .6 times .6 which is about 36 percent, I think, but I would
5 have -- I would have to do the calculation. But it reduces
6 the probability of them failing dramatically.

7 If they were all correlated, for -- if they were
8 perfectly correlated, then if they failed on
9 misrepresentation of income they would fail on all of them.
10 So they would have a 60 percent chance of failing, not a .6
11 times .6 times .6 chance of failing, which now that I've
12 done the calculation I think is only about 21 percent chance
13 of failing.

14 Q Do you have a practical, real life example of how
15 success correlation works out -- works outside the RMBS
16 context?

17 A Well, I think of it -- I'm a basketball fan so I think
18 of it in terms of free throwing. And if a --

19 Q So we used a 40 percent. Why don't we use like
20 Shaquille O'Neal or De'Andre Jordan or someone like that?

21 (Laughter)

22 A Yeah. So, yeah, the chance of -- if Shaquille shoots
23 at 40 percent, which he does about, the chance of him
24 missing if he has -- if he was fouled on a three-pointer and
25 has three free throws, the chance of him missing them all is

1 .6 times .6 times .6 or about 21 percent.

2 Q So he's getting three shots --

3 A Three bites at the apple.

4 Q Where if there was a correlation in essence it would be
5 more like a one in one -- in the old days --

6 A Yeah. It's like you only get the other shots if you
7 made the first.

8 Q Yeah. And why is this assumption beneficial to the
9 trustees?

10 A Because it increases the estimate of the probability
11 that at least one of their claims will get through the door
12 and move on to the next stage.

13 Q And so what do you -- this claim correlation
14 assumption, how does it impact the aggregate claim values in
15 your various estimation scenarios?

16 A It's going to tend to increase the aggregate claim
17 value because it makes it more likely that the trustees will
18 success on something.

19 Q Okay. And I think you mentioned earlier that this is
20 something that you raised. And why was this assumption used
21 when you raised it with the plan administrator?

22 A Well, first off it's -- quite frankly it's simpler
23 because you don't have to -- if there's correlation you have
24 to try to figure out what it is. It would certainly be
25 positive because the chance of succeeding on these claims

1 are going to be positive related. But it would be very hard
2 to estimate and a little bit speculative. So rather than
3 try to do that, I just gave the trustees the benefit of the
4 doubt and said I'll assume they're independent.

5 Q Yeah. Could you give an example for the Court of how
6 this work for a loan that had breaches in, you know, two
7 breach categories?

8 A Well, if it has loans, for example, in
9 misrepresentation and misrepresent -- and misrepresentation
10 in debt, if you fail on misrepresentation of income it's
11 probably more like you're going to fail on misrepresentation
12 of debt, but I don't assume that. Each one is a totally
13 fresh bite at the apple with a 40 percent success rate
14 chance.

15 Q And -- and the similar shoe with income and excess and
16 debt, there are two claims, another claim (indiscernible)
17 DTI, correct?

18 A Yes. And that -- even that one would be given a
19 complete independent shot, though if you failed on the first
20 two you would almost certainly fail on excessive DTI. But
21 I'm not trying to take account of that complexity.

22 Q So a misrepresentation on -- a loan that has a claim
23 for misrepresentation of income and excessive DTI, what is
24 the breach claim success rate on that particular loan using
25 your -- in your estimation standards?

1 A Well, if you're just looking at the breach claim part
2 it would be the 60 percent chance of failing times the 60
3 percent chance of failing. That's a 36 percent chance of
4 failing, so it would be a 64 percent chance of succeeding.

5 Q And if there were -- if those numbers were increased,
6 if there were other loans that had more than two breaches on
7 them it would be --

8 A The --

9 Q -- higher than 64 percent?

10 A Yeah. The more breaches the more it goes up.

11 Q Yeah. And you mentioned that as part of your reply
12 report you used the success assumptions to calculate a
13 different estimation scenarios?

14 A Yes.

15 Q And how many estimation scenarios did you -- did you
16 calculate?

17 A I used four.

18 Q Okay. And did you create a slide summarizing those
19 estimation scenarios?

20 A Yes.

21 Q And is that PA Exhibit 986?

22 A Yes.

23 Q And do you want to just explain for the Court what
24 these four scenarios represent?

25 A Well, they're just buckets of the total loans. The

1 first bucket is all the loans, nothing taken out, all the
2 disputed loans are analyzed.

3 The second bucket is excluding the on hold loans, just
4 the on hold loans for the reason that the plan administrator
5 believes they should be excluded.

6 The third bucket is putting the on hold back in and now
7 excluding the non-liquidated because the plan administrator
8 believes there isn't sufficient data to compute the damages
9 on those.

10 And then the fourth bucket is excluding both, the on
11 hold and the non-liquidated.

12 Q Okay. And what inputs did you use to calculate the
13 claim value of the disputed loans for each estimation
14 scenario?

15 A I used the disputed loans that we computed before, the
16 71,663. I used the probabilities we just showed, and I ran
17 the calculation for all these four buckets of loans.

18 Q And was those -- and those calculations were run in a
19 program that you and your team worked on?

20 A Yes.

21 Q And have you prepared a demonstrative that reflects
22 your estimation scenarios in further detail?

23 A Yes.

24 Q Okay. And I would refer you to Tab 10, PA Exhibit 987.
25 Is this the demonstrative that you prepared?

1 A Yes.

2 Q So let's start with the first row. If you just want to
3 walk through and explain, you know, what this represents.

4 A So what are you referring to as the first row --

5 Q The --

6 A -- the headings or the numbers?

7 Q Why don't we start with what each -- the different
8 categories on top, loan population and --

9 A So that -- that's just a repeat of what I just showed.
10 All loans excluding non-liquidated, excluding on hold and
11 then excluding both.

12 Q So that's tied to the four categories you just talked
13 about in your --

14 A Those are the --

15 Q -- prior testimony?

16 A -- four categories. Yes.

17 Q And then next let's look at the first substantive row
18 of the chart with numbers. It's described value of claims
19 assuming a hundred percent success. What do those numbers
20 represent in that row, Dr. Cornell?

21 A These represent the aggregate claim value calculated
22 using Dr. Snow's prices or the trustees' prices and assuming
23 one hundred percent success by the trustees meeting their
24 burden of proof in every single case.

25 Q So we start -- so it's all loans and a hundred percent

1 success. You start with the \$11.1 billion number?

2 A Correct.

3 Q Then moving over a hundred percent rate success
4 excluding the non-liquidated loans you get to 8.8 billion as
5 your starting point?

6 A Yes.

7 Q And then excluding the on hold loans, but including the
8 non-liquidated loans you start at \$7.8 billion?

9 A Yes.

10 Q And if you exclude both categories your starting point
11 for your estimation scenarios was 6.19 billion?

12 A Correct.

13 Q Okay. So now let's move to the second row. And what
14 does the second row with numbers, I guess the third row on
15 the chart, the value of claims applying success assumptions,
16 what does that represent, Dr. Cornell?

17 A Well, I've now gone through and rather than assuming a
18 hundred percent success across the board I've applied the
19 success assumptions that we just saw in the previous slide.

20 Q Can you just refer back to the prior slide?

21 A One more slide back refers back --

22 Q So these are the -- these are the success ratios you
23 applied --

24 A That's exactly right.

25 Q -- to the numbers?

1 A Correct.

2 Q So if you can just move in. And applied those success
3 rates to all loans, what's the value of the claims applying
4 the success assumptions?

5 A 2.195 billion.

6 Q Okay. And then if you exclude the non-liquidated loans
7 the plan to success rate assumptions?

8 A 1.836 billion.

9 Q Excluding the on hold loans?

10 A 1.68 -- 18 billion.

11 Q And then if you exclude both the on holds and the non-
12 liquidated loans the plan to success rates what's the value?

13 A 1.349 billion.

14 Q Okay. Now there's a next row here, right, because that
15 doesn't end when you -- the exercise in terms of valuing the
16 claim here. What does the next row represent?

17 A Well, that previous calculation that we did was just
18 for the disputed loans, the 71,663. There's also the loans
19 that aren't in dispute, so that's what the next row is.
20 That's where you see the 301 and the 278 that we calculated
21 earlier.

22 Q And that's the -- that's from the loans, they were from
23 the initial charts we saw of the loans that -- the
24 compensable claim based on the loans that are not in dispute
25 and that have been approved by the plan administrator?

1 A Right. And remember the difference between the 301 and
2 the 278 were the 44 non-liquidated loans. So they go out.
3 Whenever there's a non-liquidated you use the 278. When
4 there's not a non-liquidated you use the 301.

5 Q And that's referred to here and do you see the 278
6 that's the -- one of the columns excluding non-liquidated
7 loans and also the column excluding both?

8 A Right.

9 Q Okay. So adding that line back in to the aggregate
10 claim value of claims approved by the plan administrator,
11 that's -- you tally that number to the row above it to get
12 to the aggregate claim value under your four estimation
13 scenarios?

14 A Right. You add the estimate of the value for the
15 disputed loans to the undisputed loans and you get the
16 aggregate claim value.

17 Q Okay. And the aggregate claim values under your four
18 scenarios, I just want to walk through their range based on
19 your four estimation scenarios of the aggregate claim value.

20 A Sure.

21 Q Let's start with all loans.

22 A It's \$2.497 billion.

23 Q What about excluding the non-liquidated loans, what's
24 the --

25 A When you --

1 Q -- aggregate claim value?

2 A -- exclude the non-liquidateds it's 2.114 billion.

3 Q Excluding the on-hold loans?

4 A 1.920 billion.

5 Q And if you exclude both the on holds and the non-
6 liquidated loans what's the aggregate claim value under that
7 estimation scenario?

8 A 1.627 billion.

9 Q So looking at these numbers, these reflect a completion
10 of what your second assignment was in terms of looking at
11 the aggregate claim value running different estimation
12 scenarios?

13 A Yes.

14 Q And what does this illustrate or demonstrate to you,
15 Dr. Cornell?

16 A That with those success probabilities you get numbers
17 approximately equal to or meaningfully less than the \$2.38
18 billion settlement value.

19 Q Okay. So, Dr. Cornell, I don't know if -- do you want
20 to take a two -- I'm moving to a different topic. Do you
21 want to take a two-minute break or do you want to continue
22 to go forward?

23 A I'm doing okay now so maybe --

24 Q Okay.

25 A -- we -- while we're --

1 Q While we're hot we might as well --

2 A Yeah.

3 Q -- keep on going.

4 A While the weather's good let's keep going.

5 Q So after your deposition did you review Dr. Snow's
6 supplemental report?

7 A I did.

8 Q Okay. And did you review his purchase price
9 calculations and the implications of his report on interest?

10 A Yes.

11 Q And do you recall that Dr. Snow's supplemental report
12 calculated that the aggregate purchase price number of --
13 and this is the top column here of the 1 -- 11. -- 11
14 billion dollar number included potentially impermissible
15 interest?

16 A Yes. I'm aware of that.

17 Q And do you recall what -- generally what in the range
18 and magnitude what the amount was?

19 A It was on the order of like \$2.1 billion.

20 Q Okay.

21 A That's what I recall.

22 Q And do you have any understanding of whether the
23 payment of this interest is permitted in a bankruptcy
24 proceeding?

25 A That would be a legal question. I have no expertise in

1 that.

2 Q And that's up to the Court?

3 A Yes.

4 Q Okay. And did you adjust your totals here in your four
5 estimation scenarios to back out the impact of essentially
6 impermissible interest?

7 A No, I did not.

8 Q Okay. But if you were asked to back out the
9 impermissible interest amounts how would that affect the
10 totals here in the last line of your -- of this chart on
11 aggregated claim values?

12 A Well, to do it with precision I would have to actually
13 run the program.

14 Q Uh-huh.

15 A But because interest tends to pass through the entire
16 program somewhat linearly, if the interest accounts for
17 about 20 percent of the total, which is what Dr. Snow had
18 calculated, then it's going to -- to a back of the envelope
19 approximation reduce all the numbers by 20 percent.

20 MR. HEIDLAGE: Objection, Your Honor.

21 THE COURT: Yes.

22 MR. HEIDLAGE: We haven't received any notice of
23 this particular opinion including the magnitude or anything
24 like that.

25 THE COURT: Okay. Mr. Cosenza.

1 MR. COSENZA: Your Honor, this is the report by
2 Dr. Snow that was submitted in November. He's -- we're not
3 issuing a new opinion. He's simply reacting back of the
4 envelope as to what those numbers are. There was a
5 supplemental report from Dr. Cornell where he looked at Dr.
6 Snow's numbers and calculations to make sure they were in
7 the range of reasonableness. So I'm just simply asking one
8 or two questions as to how --

9 THE COURT: So was his --

10 MR. COSENZA: -- they would impact --

11 THE COURT: -- math in the supplemental report?

12 MR. COSENZA: Dr. Cornell's math in terms of the
13 implications to each of the --

14 THE COURT: Yes.

15 MR. COSENZA: -- each of his scenarios is not in
16 the report.

17 THE COURT: Okay. Then --

18 MR. COSENZA: We did -- we did ask the trustees if
19 they wanted us to do this and they never got back to us
20 until Tuesday afternoon. So it's just one or two questions
21 just to talk generally about the magnitude. I mean, it's a
22 20 percent number. I think it's --

23 THE COURT: Okay. Why don't we leave it right
24 there. I think you should move on to the next topic.

25 MR. COSENZA: Okay. Thank you.

1 THE COURT: Thank you.

2 (Pause)

3 MR. COSENZA: Your Honor, I think this is covered
4 in his supplemental report, just one topic -- one question.

5 THE COURT: Okay.

6 BY MR. COSENZA:

7 Q The \$2.1 billion that Dr. Snow calculated in his
8 supplemental report, what would be the impact on the value
9 of claims assuming one hundred percent success level? At
10 the top this \$11 billion number.

11 A You would just deduct the 2.1 billion, so it would be
12 about nine.

13 Q SO that would be the starting point for that deck
14 that's --

15 A Yes.

16 (Pause)

17 Q Now if we reduce the starting point -- to nine billion
18 in order to get to an estimation scenario of 2.4 what would
19 you have to do to the success rates that we already had on a
20 prior chart?

21 MR. HEIDLAGE: Objection.

22 THE COURT: Yeah.

23 MR. HEIDLAGE: He submitted -- Dr. Cornell
24 submitted a supplemental report after Dr. Snow's report on
25 interest. If any of the analysis as to what the effect

1 would be on his estimation scenarios, if you want to
2 disclose it, if you want to update it, you could have done
3 it then. He didn't. So we object to this testimony as
4 being a new --

5 THE COURT: I'm not asking --

6 THE COURT: Come on up.

7 (Sidebar off the record)

8 BY MR. COSENZA:

9 Q So, Dr. Cornell, just referring you back to your -- the
10 prior slide that had your success rate assumptions, I think
11 it was three slides before this --

12 A This one?

13 Q Yes. So if you were starting at a lower number here
14 with the \$9 billion you just testified to, in order to get
15 to the \$2 billion -- I'm sorry, the \$2.4 billion number what
16 impact would it have on applying the bridge claim success
17 rates in order to get to the \$2.4 billion?

18 A Well, you're going to have to increase those success
19 rates on the order of 20 percent somehow.

20 Q Thank you.

21 MR. COSENZA: Okay. Changing topics, Your Honor.

22 THE COURT: Okay.

23 BY MR. COSENZA:

24 Q Did you review Dr. Snow's trial testimony with respect
25 to the non-liquidated active loans?

1 A Yes.

2 Q The non-liquidated, sometimes called active. I think
3 formally they're non-liquidated but they've also been
4 described as active in the court. I'm going to show you a
5 slide from Dr. Snow's direct examination. It's Tab 16 in
6 your binder. Do you see the third column, second row here
7 where it says that historical losses on the non-liquidated
8 loans was \$772 million?

9 A I do.

10 Q Okay. And do you recall reviewing Dr. Snow's testimony
11 about this slide?

12 A Yes.

13 Q Okay. I would like to show you testimony from Dr.
14 Snow. It's Dr. Snow's trial testimony, page 3514, 15 to 22
15 and it's Tab 15 in his binder. And it's on your screen.
16 And what do you understand Dr. Snow to be saying here about
17 this number?

18 A That they are principal modifications, as he says.
19 Let's see. Yes. My understanding is that these are
20 principal modifications. That would be the 772.

21 Q Did you --

22 MR. HEIDLAGE: Objection, Your Honor. I believe
23 this is completely beyond the scope of his -- Dr. Cornell's
24 reports.

25 MR. COSENZA: I can --

1 THE COURT: Come on up.

2 (Sidebar off the record)

3 THE COURT: Okay. You can go ahead, Mr. Cosenza.

4 MR. COSENZA: Thank you.

5 BY MR. COSENZA:

6 Q As you -- just to -- I think we asked this question,
7 but just to continue. This is Dr. Snow's trial testimony,
8 page 3514, lines 15 to 22. I think you answered this
9 question, but what do you understand Dr. Snow to be saying
10 in this Q and A?

11 A That the \$772 million lifetime losses associated with
12 these non-liquidated loans are due to principal
13 modifications.

14 Q Okay. And do you have any reaction to this testimony
15 by Dr. Snow?

16 A Well, I knew that Dr. Snow had distinguished between
17 principal forgiveness and principal deferral. And so now
18 he's using a new word, modifications. So how does that
19 relate to forgiveness and deferrals, and it's important
20 because he testified that forgiveness should be in the
21 realized losses and deferrals should not.

22 Q Okay. But does 772 includes both --

23 A That --

24 Q -- deferred and forgiven (sic), correct?

25 A That's the way I understood it. Yes.

1 Q Okay. I would like to show you additional testimony
2 from Dr. Snow. This is Tab 15 again, Snow trial transcript
3 at 3553, lines 25 to 3554, line 19. Just take a minute to
4 review that.

5 (Pause)

6 A Yeah. He's explaining here --

7 Q So let me ask you a question. What do you understand
8 Dr. Snow to be saying here?

9 A He's explaining here that he wants to include the
10 forgiven principal in the realized losses, but not the
11 deferred principal because the deferred principal is not a
12 recognized loss.

13 Q Okay. So the 772 number -- maybe we can go back to Tab
14 16, TRDX-305. So this 772 number that Dr. Snow put on his
15 historical losses is -- what is -- does that -- what
16 component of that is deferred principal and what part of
17 that is, you know, forgive -- principal forgiveness?

18 THE COURT: Yes.

19 MR. HEIDLAGE: I only object because I think the
20 testimony that he previously read was referring to
21 liquidated loans where he is now attempting to suggest it's
22 related to a non-liquidated loan analysis.

23 THE COURT: I thought we've been talking about
24 non-liquidated loans this entire time.

25 MR. COSENZA: That's -- that's what I'm doing,

1 Your Honor.

2 MR. HEIDLAGE: Okay. Well, maybe I --

3 THE COURT: Okay. I --

4 MR. HEIDLAGE: I can --

5 THE COURT: Well, we have each a 40 percent chance
6 of being wrong, so --

7 (Laughter)

8 THE COURT: -- I'm happy to have you take a
9 moment, Mr. Heidlage, to check it out.

10 MR. HEIDLAGE: I would appreciate that, just --

11 THE COURT: Yeah. Okay. Why don't we take a
12 first break --

13 MR. COSENZA: Oh, Your Honor, I really have two
14 additional questions --

15 THE COURT: Okay.

16 MR. COSENZA: -- and then I think -- beyond that I
17 think I may be able to wrap up.

18 THE COURT: Okay. Fair enough.

19 MR. COSENZA: So just to wrap up --

20 THE COURT: And then during the --

21 MR. COSENZA: -- to just wrapping one AMA question
22 that you raised.

23 THE COURT: Sure.

24 MR. COSENZA: Okay. Why -- you can look at it
25 during the break and we can --

1 MR. HEIDLAGE: Sure.

2 THE COURT: -- revisit that.

3 MR. HEIDLAGE: Thank you very much.

4 MR. COSENZA: Sure.

5 BY MR. COSENZA:

6 Q So based on Dr. Snow's testimony can you tell how much
7 of the 772 in "historical losses" that you see for non-
8 liquidated loans are attributable to deferred versus
9 forgiven principal?

10 A No. There's no way to tell.

11 Q Do you know how much of this about, this 772 is
12 deferred versus forgiven principal?

13 A Well, I understand from a conversation with Mr. Trumpp
14 that most of it is deferred --

15 MR. HEIDLAGE: Objection.

16 THE WITNESS: -- but I don't know --

17 MR. HEIDLAGE: Objection.

18 THE WITNESS: -- the number.

19 MR. HEIDLAGE: I mean --

20 MR. COSENZA: Your Honor, could I have a -- if we
21 can take a break and I think -- but I -- I really just want
22 to note this was a new opinion issued by Dr. Snow, this 772.
23 He's responding to how the purchase price -- these are
24 purchase prices that were calculated by Dr. Snow --

25 THE COURT: All right. We're --

1 MR. COSENZA: -- initially.

2 THE COURT: You're going to -- I don't know what
3 this objection is to the extent that you are going to tell
4 me it's a hearsay objection. Is that what you're going to
5 tell me?

6 MR. HEIDLAGE: That's part of it.

7 THE COURT: Okay. It's not -- I'm not -- it's not
8 coming in for the truth. Okay. So let's have Mr. Cosenza
9 ask his one more question --

10 MR. COSENZA: Sure.

11 MR. HEIDLAGE: Okay.

12 THE COURT: -- and then we can come back and have
13 a chat before this continues.

14 MR. COSENZA: Sure.

15 BY MR. COSENZA:

16 Q So leaving aside your discussions with Mr. Trump, do
17 you know how much of this 772 is deferred versus forgiven
18 principal?

19 A No.

20 Q Okay.

21 MR. COSENZA: So, Your Honor, subject to we can
22 take a break now.

23 THE COURT: Okay. Let's take a break --

24 MR. COSENZA: I think I'm close to wrapping up
25 with --

1 THE COURT: And --

2 MR. COSENZA: -- that one topic on AMA. I'll go
3 back to his report to address and then we'll come back in
4 ten minutes.

5 THE COURT: Okay. All right. So let's come back
6 in ten minutes, take some time to clarify the issue about
7 the non-liquidated loans versus the liquidated loans and
8 anything else.

9 Yes, Mr. Shuster.

10 MR. SHUSTER: Could we have 15 --

11 THE COURT: Yes. You can have 15.

12 MR. SHUSTER: -- please? Thank you, Your Honor.

13 THE COURT: Absolutely. All right. So we'll come
14 back at ten minutes or so before the hour.

15 Dr. Cornell, as I'm sure you're aware, you remain
16 under oath during the breaks. Please do not discuss the
17 case or your testimony with anyone or be in anyone's
18 presence while they're doing the same.

19 THE WITNESS: What about (indiscernible) answer
20 your question about the --

21 THE COURT: No. Let -- no. No. All right.
22 Thank you, sir. All right.

23 MR. COSENZA: Thank you.

24 (Recessed at 10:37 a.m.; reconvened at 10:56 a.m.)

25 THE COURT: Have a seat.

1 All right. You ready, Mr. Cosenza?

2 MR. COSENZA: Yes. Yes, Your Honor.

3 THE COURT: Okay.

4 BY MR. COSENZA:

5 Q Could we just pull back up TRX-985? I -- we discussed
6 this earlier, Dr. Cornell, and I think there was a question
7 about the adverse and materially affects (indiscernible)
8 success rate and when that was measured. Do you recall
9 those --

10 A Yeah.

11 Q -- those questions?

12 A When the 18 or 36 months --

13 Q Yes.

14 A -- started measuring. Yes.

15 Q So, Dr. Cornell, can I refer you to your amended reply
16 report which is TRX-941? And if you could look at page 11,
17 Footnote 45, and if you could just take two minutes to read
18 the text and the associated footnote.

19 (Pause)

20 A Yeah. That's the correct answer.

21 Q Okay. So just --

22 A I just didn't recall.

23 Q -- just to -- let me ask you a question. Just does
24 that refresh your recollection as to when the AMA was
25 measured?

1 A What the -- how the number of months was measured.

2 Yes.

3 Q Yes. And could you describe for the Court how -- you
4 know, what was -- how the AMA was measured in terms of
5 payment history and number of months?

6 A Well, the -- it's relatively complicated. It -- it's
7 basically the origination date if that's available. And
8 then where it's not it's as described in Footnote 45.

9 Q So it's number of payments made at -- as of the dates
10 -- measuring from the date of origination --

11 A Yes.

12 Q -- correct? So I think you mentioned earlier it could
13 be when the claim was made, but that was --

14 A That would seem correct.

15 Q -- that was incorrect. So it's -- it's time from
16 origination. That was the -- that was the payment -- that
17 date that was used?

18 A Yes.

19 Q Okay.

20 MR. COSENZA: I think with that, Your Honor, I've
21 completed my direct examination.

22 THE COURT: Okay. Thank you.

23 MR. COSENZA: Thank you.

24 THE COURT: Okay.

25 (Pause)

1 THE COURT: Are you ready, Mr. Heidlage?

2 MR. HEIDLAGE: Yes. Yes, Your Honor.

3 THE COURT: Okay.

4 MR. HEIDLAGE: If you don't mind I'll be taking a
5 few minutes --

6 THE COURT: Sure. No problem.

7 MR. HEIDLAGE: -- just to get set up.

8 THE COURT: No problem.

9 (Pause)

10 MR. HEIDLAGE: Excuse me, Your Honor. We're --

11 THE COURT: Yes.

12 MR. HEIDLAGE: -- going to hand out a few binders.

13 THE COURT: Sure.

14 MR. HEIDLAGE: Thank you.

15 THE COURT: Ready? Okay.

16 MR. HEIDLAGE: Good morning.

17 CROSS-EXAMINATION

18 BY MR. HEIDLAGE:

19 Q Good morning, Dr. Cornell.

20 A Good morning.

21 Q We met at your deposition a while ago. I hope you're
22 doing well.

23 A Well, I'm not doing that well, but we did meet at my
24 deposition.

25 Q Fair enough.

1 (Laughter)

2 A Compared to some of the other people in this case I'm
3 doing, I think, very well.

4 Q You were assisted by a team at Compass Lexecon,
5 correct?

6 A Yes.

7 Q And that team was headed by Dr. Gerry Lumer, correct?

8 A Yes.

9 Q And I want to talk about some of the conclusions you
10 had in your affirmative report that you discussed with Mr.
11 Cosenza. In your affirmative report you concluded that the
12 aggregate claim value was approximately 236.8 million; is
13 that correct?

14 A Actually, it was 232.6 because I had the servicer fee
15 adjustment out and later amended it to 236.8.

16 Q Okay. And that amount was for the approximately 1,076
17 loans that you referred to as compensable claims, correct?

18 A Correct.

19 Q Okay. And those are the loans for which claims were
20 submitted during the protocol and as to which you understand
21 the plan administrator accepts that there is a
22 representation and warranty breach that adversely and
23 materially affects the value of the loan and where the plan
24 administrator also accepts the trustees' calculated purchase
25 price, correct?

1 A Correct.

2 Q And you're not offering an opinion on the meaning of
3 any of the governing agreements in this case, correct?

4 A I am not.

5 Q And you're not offering an opinion on the meaning of
6 any of the representations and warranties in this case,
7 correct?

8 A I am not.

9 Q You're not offering an opinion as to when a loan must
10 be -- may be repurchased, correct?

11 A As to what?

12 Q When a loan must be repurchased?

13 A No, I'm not.

14 Q Okay. You're not offering an opinion on what
15 constitutes a breach of one or more of the representations
16 and warranties, correct?

17 A Correct.

18 Q And you're not offering an opinion as to what
19 constitutes prompt notice of a breach, correct?

20 A Correct.

21 Q You're not offering an opinion as to whether the
22 trustees properly complied with any aspect of the protocol,
23 correct?

24 A Correct.

25 Q You're also not offering an opinion as to what standard

1 the Court should use to estimate the value of the trustees'
2 claims, correct?

3 A I think that's correct. Yes.

4 Q Now for each of the loans you included as a compensable
5 claim you understood the claim value of that loan to be
6 equal to its purchase price, correct?

7 A I assumed that it was, more than I -- I guess if you --
8 by -- I understood that was given to me as an assumption
9 that I accepted.

10 Q Okay. And you wrote in your affirmative report that
11 the governing agreements defined purchase price as the sum
12 of the unpaid principal balance of the loan, accrued
13 interest, costs incurred by the trust in connection with any
14 violations of the law related to the law and any un-
15 reimbursed servicing advances made by the servicer of the
16 loan, correct?

17 A Correct.

18 Q And you did not find any errors in the trustees'
19 calculation of the purchase price, correct?

20 A No mathematical errors. Correct.

21 Q Now as part of your assumptions in your affirmative
22 report you did not net out any amount of interest, correct?

23 A Correct.

24 Q And that's because you didn't understand that to be a
25 factor at the time, correct?

1 A I did -- wasn't aware of it being a factor at the time.

2 Q In fact, the first time you learned netting out of the
3 interest might be necessary, according to the plan
4 administrator, was the day prior to your deposition in
5 October, correct?

6 A That's right.

7 Q And, in fact, your impression at the time of your
8 deposition was that the plan administrator's position as to
9 the proper components of the purchase price had changed from
10 the time you provided your affirmative report, correct?

11 A That was my impression.

12 Q Now in your reply report you adopted the purchase
13 prices calculated by Dr. Snow for purposes of generating
14 your estimation scenarios, correct?

15 A I did.

16 Q And as part of your work on the reply report you or
17 your team checked Dr. Snow's arithmetic for the calculation
18 of the purchase price, correct?

19 A Yes.

20 Q Okay. And you didn't find any errors in Dr. Snow's
21 arithmetic, correct?

22 A Correct.

23 Q And you have no reason to believe that the data Dr.
24 Snow relied on was unreliable or contained any inaccuracies,
25 correct?

1 A As I sit here now, no, I don't.

2 Q Now there were a small number of loans which were non-
3 liquidated loans at the time Dr. Snow calculated his
4 purchase prices, but which had liquidated by the time you
5 prepared your reply report, correct?

6 A Yes.

7 Q And for those loans you calculated the purchase price
8 yourself, correct?

9 A Yes.

10 Q And you did that because for such loans you did not
11 have a post-liquidation purchase price from Dr. Snow,
12 correct?

13 A Correct.

14 Q And you applied the same approach as Dr. Snow, correct?

15 A Correct. I tried to make it as consistent as possible
16 with the other parts of my report where I relied on Dr.
17 Snow.

18 Q Okay. And, again, you did not -- you included interest
19 in the calculation, correct? You didn't net it out?

20 A Correct.

21 Q Okay. You used MBS data to calculate the purchase
22 price, correct?

23 A Yes.

24 Q And as far as you know the MBS data is reliable?

25 A Yes.

1 Q And for loans for which MBS data did not have a
2 realized loss number to use for the purchase price you used
3 Nationstar data instead, correct?

4 A That's what I -- I would have to double check to be
5 sure, but that's what I recall.

6 Q Okay. And you have no reason to believe the Nationstar
7 data was not reliable, correct?

8 A I don't. No.

9 Q Okay. And you understand that the Nationstar master
10 servicing data is one of the data sources that Dr. Snow
11 relied on for purposes of calculating his purchase prices,
12 correct?

13 A Yes.

14 Q Okay. And your team at Compass Lexecon would have
15 reviewed the Nationstar data and chosen to rely on it,
16 correct?

17 A Yes.

18 Q Okay. And your team never reported any inaccuracies in
19 the Nationstar data, correct?

20 A Not to me, no.

21 Q And you agree that remittance data published by the
22 trusts is generally used by experts in the RMBS data -- I'm
23 sorry -- withdrawn. Let me restart that question.

24 You agree that remittance data published by the trusts
25 is generally used by experts in the RMBS industry to

1 calculate damages or losses, correct?

2 A I think that's true, but it's not something I recall
3 checking recently.

4 Q Okay. Do you recall me asking you a question about
5 this at your deposition?

6 A No.

7 Q Okay. Could we show TRX-973, page 86 at line 21 to 87,
8 5?

9 MR. COSENZA: Your Honor, I --

10 THE COURT: Yes.

11 MR. COSENZA: -- I don't think this is proper
12 impeachment. The witness said I think that's true, but he
13 did not check it recently. I don't know how this testimony
14 is impeachment.

15 THE COURT: Well, let's see what it says.

16 THE WITNESS: Sure.

17 BY MR. HEIDLAGE:

18 Q I asked the question, "Would you agree that remittance
19 data published by the trust is generally used by experts in
20 the RMBS industry to calculate damages or losses, correct?"
21 Mr. Cosenza objected. And you responded, "In my limited
22 experience on that, that's true."

23 Did I ask that question and did you give that answer?

24 A Yes.

25 Q Thank you.

1 MR. COSENZA: Same objection, Your Honor. I don't
2 see it as being impeachment.

3 THE COURT: Overruled, Mr. Cosenza.

4 BY MR. HEIDLAGE:

5 Q And, in fact, you personally used data from remittance
6 reports for calculating loan level historical losses in the
7 Citigroup matter, correct?

8 A As I recall, yes.

9 Q Now you did not analyze any loss certificates or
10 corporate expense logs in performing your purchase price
11 calculation here, correct?

12 A Correct.

13 Q Now one group of loans that you removed in your
14 affirmative report as not compensable were loans where you
15 understood the plan administrator found the trustees failed
16 to provide sufficient documentation to allow the plan
17 administrator to review such loans, correct?

18 A Yes.

19 Q These are the on hold loans that Mr. Cosenza referenced
20 earlier?

21 A Yes.

22 Q Okay. And those include loans that were -- the plan
23 administrator alleges were missing corporate expense logs or
24 loss certificates. Are you aware of that? Is that correct?

25 A Not specifically, no.

1 Q Okay. You're not opining that any of the documents
2 identified by the plan administrator that were supposedly
3 missing as to cause the loan to be put on hold are, in fact,
4 necessary either to calculate the purchase price or for any
5 other reason, correct?

6 A I'm not appointing -- opining on that one way or the
7 other.

8 Q Okay. And it's correct that you only know generally
9 what a loss certificate is; is that fair?

10 A That's fair.

11 Q Okay. And you never reviewed a loss -- a final loss
12 certificate in the context of your work, correct?

13 A Correct.

14 Q You have never used a loss certificate to confirm the
15 loss numbers in any way in any of your prior matters,
16 correct?

17 A Not that I recall, no.

18 Q Okay. And, in fact, you never even requested a final
19 loss certificate in the context of your work, correct?

20 A I don't recall ever requesting one.

21 Q Now you're aware that Dr. Snow performed a comparison
22 of the data on the loss certificates from the loans at issue
23 here in the data used by Dr. Snow, correct?

24 A I think so. I don't specifically recall.

25 Q Okay. You didn't do any comparison of the data on any

1 loss certificates to the data on a -- used by Dr. Snow,
2 correct?

3 A No, I did not.

4 Q And it's -- it's true that you do not know what a
5 corporate expense log is the context of RMBS, correct?

6 A I don't think so.

7 Q Okay. You never requested a corporate expense log in
8 the context of your RMBS work?

9 A No, not that I recall.

10 Q And you cannot recall using corporate expense logs to
11 confirm loss numbers in your prior matters, correct?

12 A That's correct.

13 Q Now another group of loans you excluded in your
14 affirmative report as non-compensable were non-liquidated
15 loans, correct?

16 A Yes.

17 Q And you're not offering an opinion as to whether non-
18 liquidated loans should be excluded or should not be
19 excluded, correct?

20 A That's correct.

21 Q And you're not offering an opinion as to whether Dr.
22 Ellson's valuation of such loans is reasonable, correct?

23 A That's correct.

24 Q And you don't have an opinion as to whether or not Mr.
25 Castro was correct with respect to his critiques of Dr.

1 Ellson, correct?

2 A No. I haven't weighed in on that.

3 Q Okay. You mentioned earlier the servicer issue. I
4 would like to ask you about that. To the best of your
5 knowledge, I think you testified this, the servicer issue is
6 completely out of the litigation, correct?

7 A That's my understanding.

8 Q Okay. And in your issuing your affirmative report and
9 identify -- and where you assume that \$4.2 million, you did
10 no analysis to identify whether or not that 4.2 number was
11 reasonable, correct?

12 A I don't remember doing so.

13 Q Okay. So I'm going to switch topics to your estimation
14 scenarios at the moment. Okay.

15 Now I think the way that you described is that the PA
16 asked you to design estimation scenarios that illustrate how
17 often the trustees need to succeed on their claims in order
18 to achieve an aggregate claim value of approximately 2.38
19 billion, correct?

20 A Yes.

21 Q Okay. And they also provided you with each of the
22 success percentages, correct?

23 A Yes. They worked with my team to develop those.

24 (Pause)

25 Q Okay. Do you recall me asking a question at your

1 deposition about how you received the success assumptions?

2 A No.

3 Q Okay. Do you recall testifying previously that the
4 plan administrator simply gave you the assumptions?

5 A Well, that is what ultimately happened. Yes.

6 Q Okay. So counsel both gave you the \$2.38 billion
7 target and then also the percentages that got you to reach
8 that target, correct?

9 A Well, I was aware of the target, but they then gave me
10 the percentages. Yes.

11 Q Well, you were made aware of the target by the plan
12 administrator, correct?

13 A I think so.

14 Q Now I believe that we saw earlier that there were two
15 steps, correct, the breach defenses and then the AMA
16 defenses?

17 A Yes.

18 Q Okay. You're not opining as to what the trustees must
19 do to get over either one of those steps, correct?

20 A No, I'm not.

21 Q And you're not opining as to what constitutes a valid
22 defense of threshold facts, correct?

23 A Correct. I'm not.

24 Q And you're not offering an opinion as to whether the
25 PA's provided a defense to a threshold fact with respect to

1 any loan, correct?

2 A Correct.

3 Q Nor are you opining as to what constitutes a valid
4 defense for the representations and warranties, correct?

5 A Correct.

6 Q And you're not opining as to whether the PA's provided
7 a valid defense to any of the representations and warranties
8 with respect to any of the loans, correct?

9 A Correct.

10 Q And you're not offering an opinion as to what
11 constitutes a valid AMA defense, correct?

12 A That's right.

13 Q Okay. And you're not offering an opinion as to what
14 constitutes an adverse and material effect on the value of a
15 mortgage loan in this case, correct?

16 A Correct.

17 Q You understand that Mr. Castro and the trustees'
18 experts disagree on the question of what constitutes AMA,
19 correct?

20 A I'm aware they disagree.

21 Q Okay. But you don't have an opinion one way or the
22 other as to who is right or wrong, correct?

23 A Correct.

24 Q Okay.

25 (Pause)

1 MR. HEIDLAGE: Could we show Exhibit B to the
2 amended reply report, TRX-941?

3 BY MR. HEIDLAGE:

4 Q Okay. And this is the -- it's effectively the slide
5 that was put up earlier with the various success assumptions
6 that you had, correct?

7 A Yeah. It looks like the same thing.

8 Q Okay. And --

9 A It's the same thing.

10 Q -- just so the record is absolutely clear every single
11 one of the numbers on the percentage of breach claim to
12 overcome breach defenses, the 40, 40, 40, 40 all the way
13 down to the ten, those were all provided to you by the -- by
14 counsel, correct?

15 A That's correct.

16 Q And the same thing goes with the AMA defense, 50, 50,
17 15, 15, all the way down to the other ten, the tens on the
18 bottom, those were all provided to you by counsel, correct?

19 A Yes.

20 Q Okay. And you're not opining as to whether or not any
21 one of those numbers, any one of those assumptions was, in
22 fact, a reasonable assumption, correct?

23 A With one caveat. As I said I think some seasoning
24 assumption is reasonable because I've done previous work on
25 seasoning. But that would be the extent of it.

1 Q Well, just to be clear, you don't have an opinion as to
2 what constitutes an AMA defense, correct?

3 A Correct.

4 Q So you're not offering an opinion as to whether or not
5 seasoning is relevant in this case, correct, based on what
6 an AMA defense is, isn't that true?

7 A Based on what an AMA defense is I'm not.

8 Q It could or could not be. You don't know.

9 A As to an AMA defense I don't know.

10 Q Okay. And, in fact, I asked you at the deposition
11 whether or not that 18 number was, in fact, consistent with
12 your prior experience and you said it was not, correct?

13 A I don't remember.

14 (Pause)

15 MR. HEIDLAGE: Can you show TRX-97 -- 973, page 25
16 to -- line 25 to 26, 4, page 25, line 25, page 26, 4?

17 BY MR. HEIDLAGE:

18 Q Okay. I asked the question, "Is the 18 months
19 specifically consistent with what you had found in the
20 past?" "Answer: Not that specific number, no."

21 THE COURT: Mr. Cosenza.

22 MR. COSENZA: Could we just -- I -- just to avoid,
23 could we just read the question before that starting at line
24 21 just for completeness.

25 THE COURT: Yes.

1 MR. HEIDLAGE: Sure. Can you add line 21, please?

2 BY MR. HEIDLAGE:

3 Q You had stated it was -- okay.

4 "You had stated it was consistent with things you had
5 found in the past; is that correct?"

6 "Answer: Yes."

7 "Is the 18 months specifically consistent with what you
8 had found in the past?"

9 "Answer: Not that specific number, no."

10 Did I ask those questions and did you give those
11 answers?

12 A I did.

13 Q Okay. Now going back to Exhibit B for a moment --

14 MR. HEIDLAGE: Can you go back to Exhibit B,
15 please?

16 BY MR. HEIDLAGE:

17 Q Okay. You did not make any changes to the success
18 assumptions after you received them, correct?

19 A I did not.

20 Q Okay. And you're not offering an opinion as to the
21 likelihood that the Court would apply any particular success
22 rate, correct?

23 A I'm not offering any judgment to what the Court would

24 --

25 Q And you're not offering --

1 A -- decide to do.

2 Q I'm sorry. I didn't mean to cut you off.

3 A For what the Court might decide to do.

4 Q And you're not offering an opinion as to the most
5 appropriate success rate that the Court should apply,
6 correct?

7 A Correct.

8 Q And to understand why one assumption was chosen as
9 opposed to a different number we would have to talk to the
10 plan administrator's counsel, correct?

11 A I think so. Yes.

12 Q In fact, you don't know in any way how the success
13 assumptions you provided were derived, correct?

14 A Not specifically, no.

15 Q And, therefore, you do not know how the Court's
16 determination that any particular defense raised by the plan
17 administrator, if the Court determined that it was not a
18 valid defense, that it was devoid of legal merit, you don't
19 know how that determination would affect any of the success
20 assumptions here, correct?

21 A No, I don't.

22 Q Okay. And you don't break out how many loans are
23 affected by any particular defense raised by the plan
24 administrator, correct?

25 A Breakout by defense, no, I don't.

1 Q Okay. The Court could resolve some of the disputes
2 between the parties but for reaching an estimate of the
3 value of the claims, correct?

4 A As far as I know.

5 Q And you agree that if the Court were to adopt your
6 approach it's important to get the success assumptions that
7 most accurately reflect reality, correct?

8 A That seems like a fair characterization.

9 Q Okay. But, again, you don't have any opinion, again
10 assuming the Court adopts your approach, as to how the Court
11 is to determine what the appropriate success assumption
12 should be at either level, correct?

13 A No, that would be her judgment.

14 Q Now I just want to make sure I understand the math on
15 some of these correctly. So looking at the
16 misrepresentation of income at the moment, you have a 40
17 percent and then a 50 percent and then a 15 percent number?

18 A Yes.

19 Q Okay. So we can use this to calculate the overall rate
20 of success by the trustees, correct?

21 A What do you mean by the overall?

22 Q Sure. So for misrepresentation of income where there
23 was payments over 18 months, according to your calculation
24 the trustees would -- your -- by your calculation would have
25 a success rate of 20 percent, correct, 40 times 50?

1 A Well, you said over 18 so it would be 40 times --

2 Q I'm sorry. I apologize. That was my mistake. I
3 misspoke. Let me re-ask the question.

4 For where there was a -- for the loans with
5 misrepresentation of income breach claim where there were
6 payment -- payments less than 18 months it would be 20
7 percent, correct, overall --

8 A Yes.

9 Q -- success rate? And for where there were payments
10 that over -- over 18 months, for example, 19 months, 20
11 months, et cetera, that would be six percent, correct?

12 A Correct.

13 Q And we could do the math all the way down for each one
14 of these. I'm not going to do that, but you're just
15 effectively multiplying the two percentages together,
16 correct, for the overall success rate?

17 A Yes.

18 Q Okay. And then you apply those overall success rates
19 to effectively apply a haircut to the trustees' claims,
20 correct?

21 A Well, it works out that way.

22 Q Yeah. I understand. So -- and the haircuts range from
23 either an 80 percent haircut all the way down to a 99
24 percent haircut, correct?

25 A In certain circumstances like underwriting it would be

1 99.

2 Q It would be a 99 percent haircut, correct?

3 A Yes.

4 Q Okay. And the smallest haircut that you apply is an 80
5 percent haircut?

6 A The smallest is --

7 Q Like 40 --

8 A Well, but, you see, because that's before adjusting for
9 the multiple claims. On an individual -- so --

10 Q I understand. I'm saying on a claim by claim basis --

11 A On a claim basis the smallest haircut would be 80
12 percent.

13 Q Okay. And then I want to talk to you about -- you
14 mentioned the correlation and I think that's what you were
15 about to get to ask -- to mention.

16 A And if I could just take a couple of minute break.
17 I've drunk so much water --

18 THE COURT: Yes.

19 THE WITNESS: -- that the --

20 THE COURT: Sure.

21 THE WITNESS: -- this may be a good place for me
22 to --

23 THE COURT: Yes.

24 THE WITNESS: -- take a -- so I'll just literally
25 be --

1 THE COURT: Ten minutes. We'll all come back in
2 ten minutes.

3 THE COURT: It doesn't have to be that long for
4 me.

5 THE COURT: It's hard to make it shorter given the
6 size of the crowd.

7 THE WITNESS: Okay.

8 THE COURT: So we'll call it ten minutes. Not a
9 problem.

10 (Recessed at 11:25 a.m.; reconvened at 11:35 a.m.)

11 THE COURT: Please have a seat.

12 (Pause)

13 THE COURT: Go ahead.

14 MR. HEIDLAGE: Okay.

15 BY MR. HEIDLAGE:

16 Q Dr. Cornell, you've read a lot of material on the RMBS
17 industry and are generally familiar with industry sources,
18 correct?

19 A Yes.

20 Q To the extent you cite sources in your opinions you
21 believe they're reliable, correct?

22 A Well, it varies. It depends on the source and the --
23 how I cited it.

24 Q Well, to the extent you cite the source for the
25 position -- for the point on which you cite it you believe

1 it's reliable, correct?

2 A Generally, yes.

3 Q Okay. And in your work you generally cite those
4 sources that you believe are the most relevant and
5 informative, correct?

6 A I try to.

7 Q Yeah. And earlier you mentioned that you were a -- I
8 believe an associate at the Journal of Finance, correct?

9 A Yes.

10 Q Okay. And the Journal of Finance is one of the premier
11 journals in finance?

12 A Yes.

13 Q And it's a peer review publication, correct?

14 A Yes.

15 Q Okay. And one of the jobs that you had or one of the
16 jobs the associate editors had was to make recommendations
17 as to what papers to publish, correct?

18 A Yes.

19 Q And part of that is to determine that the articles that
20 are being published are well founded, correct?

21 A Yes, and consistent with current research and so forth.

22 Q Okay. Now you offered an opinion in the Citigroup RMBS
23 case. We discussed that earlier?

24 A Yes.

25 Q Okay. And that was part of an RMBS put back matter,

1 correct?

2 A Yes.

3 Q And in supporting your opinion you relied on a study by
4 Professor Kamaz Biscorski (ph) of Columbia Business School
5 Asset Quality Misrepresentation by Financial Intermediaries
6 Evidenced From RMBS Market. Is that -- do you recall that?

7 A No.

8 Q Okay.

9 MR. HEIDLAGE: Could we put up TRX-1146 at page 71
10 -- well, page 70, please, 70 and 71?

11 BY MR. HEIDLAGE:

12 Q Okay. Do you see in Footnote 20 you cited that article
13 that I just discussed?

14 A You said Footnote 20.

15 THE COURT: Footnote 200.

16 MR. HEIDLAGE: I'm sorry. I really botched that
17 one. Footnote 200. Yes.

18 THE WITNESS: I do.

19 BY MR. HEIDLAGE:

20 Q Okay. And, in fact, they used a -- you noted that the
21 study used the same sources that you used for your analysis,
22 correct?

23 A Yes.

24 Q Okay. And then in Footnote 4 -- 204 you cited the
25 article -- the figure 5 of that article to show mis -- rate

1 of misrepresentations of approximately eight percent of the
2 loans collateralizing RMBS underwritten by Citigroup,
3 correct?

4 A That's what it says. Yes.

5 Q Okay. And if we look up to your -- the top of the
6 paragraph 114 of your Citigroup report you note that it's a
7 -- evidence of the borrower's intent to occupy the property
8 or the existence that -- of a second lien being misstated.
9 Do you see that?

10 A Yes.

11 Q That's the misrepresentations that are being discussed?

12 A It looks like it. Yes.

13 Q Okay. Can we put up figure 5 to the Biscorski article,
14 please? And this is TR -- TRX-1252 at page 64 of the
15 exhibit.

16 Okay. And this is the figure that you had cited. Do
17 you see that the Citigroup is right down there at around
18 eight percent?

19 A Yeah. I see it. What page is it on in the actual
20 paper?

21 Q 62, I believe, of the paper of TRX-1252.

22 A 12 -- the pages are numbered 2658 and so forth.

23 Q I think you may be looking at the wrong -- so this
24 paper when you cited it was a working -- a working paper.

25 A Oh, so you're not citing the published version. You're

1 citing the --

2 Q Well, I wanted just to point you to the provision that
3 you cited in your report?

4 A Okay. So what page is that?

5 Q Sure. That is page 64 of the actual -- of the exhibit,
6 I believe.

7 A Okay. I think I see it.

8 Q Okay. And this is where you got your eight percent
9 number approximately from Citigroup. Do you see that?

10 A It may be. I haven't looked back at this article --

11 Q Sure.

12 A -- in recent days.

13 Q Sure. This is figure 5. Do you see that?

14 A Yes.

15 Q Okay. And you had cited figure 5 in your report?

16 A Yes.

17 Q Okay. And now it also has Biscorski did an analysis
18 for other institutions, correct?

19 A Yes.

20 Q Okay. And one of those institutions, for example, was
21 Countrywide and it's somewhere around 11 percent. Do you
22 see that?

23 A Yes.

24 Q Okay. And then we also have Lehman Brothers. Do you
25 see that?

1 A Yes.

2 Q Okay. And that number is around 16 percent, correct?

3 A It looks like it.

4 Q It's a little bit of an outlier on this figure,
5 correct?

6 A It looks like it. Yes.

7 Q Okay. And Biscorski also broke these out just by
8 evidence of misrepresentations of non-owner occupants by
9 underwriter, correct? Do you recall that?

10 A No, I don't.

11 Q Okay. Can we turn to figure 3?

12 THE COURT: Mr. Cosenza.

13 MR. COSENZA: Your Honor, I'm going to object to
14 this. This is beyond the scope of his expert report here.
15 This is something he relied on in a different case. This is
16 not even -- to the extent he relied on it he cited it and
17 the author of this article who did this analysis is not
18 here. I don't know what relevance this has to the opinions
19 he's offered in this case in terms of his calculation
20 (indiscernible) estimation scenarios. And, again, this is
21 not his work. This is simply an article he cited in a
22 different expert report in a different matter.

23 So I think this is beyond the scope of, you know,
24 his reports here and his direct examination.

25 MR. HEIDLAGE: So I have a couple of things. One

1 is that I have two more questions on this that -- but --

2 THE COURT: It's the two-question -- I only have
3 two more questions --

4 MR. HEIDLAGE: -- but I think more important --
5 (Laughter)

6 THE COURT: -- rule which didn't work for Mr.
7 Cosenza.

8 MR. HEIDLAGE: That's fair. But more importantly,
9 I think, Dr. Cornell relied on this as his -- as a source
10 that he believed was reliable as evidence of
11 misrepresentations of occupancy and the prevalancy of
12 misrepresentations of occupancy for -- in the Citigroup
13 matter.

14 THE COURT: That's right.

15 MR. HEIDLAGE: He has now made various assumptions
16 on whether or not, I think, in part, there are the trustees
17 could be successful on misrepresentations of occupancy
18 claims.

19 THE COURT: He was supplied assumptions --

20 MR. HEIDLAGE: I agree. And --

21 THE COURT: -- and did mathematic -- did a
22 mathematical calculation based on a model using those
23 supplied assumptions.

24 MR. HEIDLAGE: I understand that, Your Honor. I
25 think we would argue that to the extent that he was aware of

1 evidence that we would have believed suggested those
2 assumptions were unreasonable that we should be able to get
3 that in on cross and then it can be taken as it may. But we
4 believe that this evidence is both reliable. Dr. Cornell
5 testified that he relied on it for the --

6 THE COURT: You --

7 MR. HEIDLAGE: -- this point.

8 THE COURT: If we were to go down that path then
9 we would have had -- we would have to come back for 20 more
10 days because then both sides would be able to get into
11 evidence that they have identified in order to be able to
12 try to establish that the assumptions supplied that the
13 testifying expert had reason to believe the assumptions were
14 unreasonable, and I think that that dramatically expands the
15 scope.

16 So Dr. Cornell has testified I think rather
17 specifically that he's relied on what he cited for the
18 proposition he cited it and I don't think we're going to
19 take it beyond that, whether it's two questions or not.

20 Okay.

21 MR. HEIDLAGE: Understood.

22 THE COURT: Thank you.

23 BY MR. HEIDLAGE:

24 Q You talked with Mr. Cosenza a little earlier about Dr.
25 Snow's supplemental report on interest. Do you recall that?

1 A Yes.

2 Q Okay. And you responded to Dr. Snow's calculation and
3 largely adopted it; is that fair?

4 A His calculation on interest?

5 Q On interest.

6 A I didn't really adopt it because I haven't adjusted
7 anything for interest at this point.

8 Q Okay. You confirmed that the -- that Dr. Snow's
9 approach to calculating interest was the approach that you
10 would have taken, correct?

11 A Basically, yes.

12 Q Okay. Now you're aware that Dr. Snow opined that
13 approximately 65 percent of the 60,305 liquidated loans
14 liquidated with a realized loss of principal only. Do you
15 recall that? That was one of the opinions that Dr. Snow
16 gave.

17 A I recall that opinion.

18 Q Okay. And in your rebuttal you didn't challenge that
19 finding, correct?

20 A I just didn't address it.

21 Q Right. You didn't address it either way?

22 A Correct.

23 Q Okay.

24 (Pause)

25 MR. HEIDLAGE: I apologize for skipping around. I

1 meant to address this earlier.

2 BY MR. HEIDLAGE:

3 Q We talked a little bit about the assumption you made
4 about correlation. Do you recall that?

5 A Yes.

6 Q Okay. And you -- you didn't do any analysis to
7 determine to what extent the breaches in this case were
8 correlated at all, correct?

9 A No. I thought for general principals they would be
10 positively correlated, but I didn't attempt to estimate that
11 or to use that.

12 Q Okay. So to what extent they may or may not be
13 positively correlated you don't offer an opinion on it?

14 A That's right.

15 Q Okay. And you're not opining on the extent to which
16 they're correlated, correct?

17 A That's right.

18 Q Okay.

19 MR. HEIDLAGE: Could I have just one moment?

20 THE COURT: Sure.

21 (Pause)

22 BY MR. HEIDLAGE:

23 Q Earlier Mr. Cosenza asked you a few questions about the
24 seven -- \$172 million historical losses figure. Do you
25 recall that?

1 A Yes.

2 Q And those numbers came from Dr. Fischel, correct?

3 A Well, the numbers in the first column came from
4 Fischel. I'm not sure that the second column did.

5 Q You don't know where they came from; is that fair?

6 A Well, it could be -- let's bring up the document.

7 Q Sure.

8 A Just so I can see it again.

9 (Pause)

10 Q This is TRDX-305.

11 A So the first -- second column where it says loan
12 subject to Professor Fischel's analysis, that I know came
13 from Fischel. But breaking it down to the non-liquidated
14 loans, I don't know whether Fischel or one of your experts
15 did that.

16 Q I understand. So whatever the testimony is about these
17 derived you're not offering an opinion as to whether or not
18 that's accurate or not; is that --

19 A Correct.

20 Q Okay. Now the 70 -- this column I think as you've just
21 acknowledged was -- relates to non-liquidated loans,
22 correct?

23 A Yes.

24 Q Okay. And how does Dr. Snow calculate the purchase
25 price for non-liquidated loans?

1 A You mean with regard to principal modifications?

2 Q With regard to any?

3 A Well, it's unpaid principal plus unpaid interest plus
4 servicer advances.

5 Q Okay. And you didn't challenge any of his calculations
6 on this, correct?

7 A Correct.

8 Q You actually went and checked his arithmetic and they
9 all tied out, correct?

10 A Arithmetic tied out.

11 Q Okay. And what constitutes realized loss in Dr.
12 Fischel's spreadsheet, that was something that Dr. Snow was
13 just explaining as to how he read Dr. Fischel's spreadsheet,
14 correct?

15 A I couldn't testify one way or the other on that.

16 Q Okay. So you don't know when he referred to realized
17 losses and what was in realized losses or what wasn't in
18 realized losses, you don't know whether or not he was just
19 explaining what was in Dr. Fischel's spreadsheet or anything
20 else, correct?

21 A Well, that was the problem. He used the word
22 modifications and I didn't know if it included forgiven
23 principal, deferred principal or both.

24 Q And you don't know, just to be clear, how much of the
25 172 million is forgiven principal versus deferred principal,

1 correct? You didn't do that analysis?

2 A I haven't done it. I understand that Mr. Trumpp is
3 going to look at that.

4 Q Okay. And you recognize that deferred principal is --
5 that there is a risk that it won't be recovered, correct?

6 A Yes.

7 MR. HEIDLAGE: I have no further questions at this
8 time.

9 THE COURT: All right. Thank you very much.

10 MR. COSENZA: Your Honor, could we take five
11 minutes? I think I'm going to have -- if I have something
12 it's going to be less than five or ten minutes. I may not
13 have anything.

14 THE COURT: Okay.

15 MR. COSENZA: I just want to --

16 THE COURT: All right. Then let's call it ten.

17 We'll come back at noon and we'll see what you have to say,
18 Mr. Cosenza.

19 MR. COSENZA: Great. Thank you.

20 THE COURT: Thank you.

21 Do -- are we done for the day after this?

22 MR. COSENZA: Yes.

23 THE COURT: Okay.

24 MR. COSENZA: I do think we should after Mr. --
25 Dr. Cornell is completed --

1 THE COURT: Sure.

2 MR. COSENZA: -- just to caucus on --

3 THE COURT: Absolutely. Okay.

4 MR. COSENZA: Yeah.

5 THE COURT: We'll come back in ten minutes.

6 (Recessed at 11:49 a.m.; reconvened at 12:03 p.m.)

7 THE COURT: Please have a seat.

8 MR. COSENZA: Your Honor, I hopefully have less
9 than five questions --

10 THE COURT: Okay.

11 MR. COSENZA: -- and that will be very quick. I
12 just want clarification.

13 UNIDENTIFIED SPEAKER: It's not two?

14 MR. COSENZA: Not two. This time it's five.
15 When you're trying to get away with something you say two.

16 (Laughter)

17 REDIRECT EXAMINATION

18 BY MR. COSENZA:

19 Q So, Dr. Cornell, during your cross-examination you were
20 questioned about Dr. Snow's supplemental report they did on
21 interest. Do you recall that?

22 A Yes.

23 Q Okay. And you were asked a question about confirming
24 Dr. Snow's approach to calculating interest and whether
25 that's an approach you would have taken. Do you recall that

1 question?

2 A Yes.

3 Q Okay. And when you were responding to that question
4 you were talking about the math and calculations relating to
5 Dr. Snow's approach, correct?

6 A Yes. And when you add up all the interest you got to
7 about 2.1 billion. Whatever that number was I could -- that
8 looked correct to me.

9 Q And you understand Dr. Snow in his supplemental report
10 also had a series of other possible permutations for
11 approaches for approaches for handling interest with
12 different date cut-offs?

13 A Yes.

14 Q And you weren't adopting those positions, correct?

15 A No. I was just looking at his calculations of the
16 total interest paid.

17 Q Okay. And that's an issue that's going -- the issue
18 about which is the proper approach and what the different
19 cut-offs, you understand that to be a legal issue to be
20 decided by the Court? That's the last question.

21 THE COURT: That's the last question rule.

22 (Laughter)

23 THE WITNESS: I do.

24 MR. COSENZA: Okay. Thank you, Your Honor.

25 THE COURT: All right.

1 MR. COSENZA: I was trying to do it quickly. I
2 apologize.

3 THE COURT: All right. Thank you.
4 Anything further?

5 MR. HEIDLAGE: We have no further questions.

6 THE COURT: Okay. Very good.

7 Dr. Cornell, thank you very much.

8 THE WITNESS: Thank you, Your Honor.

9 THE COURT: Hope you feel better.

10 THE WITNESS: I actually don't feel that bad.
11 It's just my sounds.

12 THE COURT: Okay. So did you want to continue on
13 the record or did you want to just chat?

14 MR. SHUSTER: It wasn't even my idea.

15 (Laughter)

16 THE COURT: Fair enough.

17 MR. COSENZA: I think, Your Honor, given some of
18 the sensitivities --

19 THE COURT: Okay.

20 MR. COSENZA: -- it may make sense to --

21 THE COURT: All right. Then let's --

22 MR. COSENZA: -- do this in chambers.

23 THE COURT: -- conclude for the day and whoever
24 needs to discuss the scheduling matters we can continue.

25 So just for the public record, though, we're going

1 to resume Monday at 12:30 and we will conclude, I have a
2 hard stop at about five and that shouldn't be difficult,
3 right?

4 MR. SHUSTER: Correct.

5 THE COURT: Okay. All right.

6 MR. SHUSTER: Thank you, Your Honor.

7 THE COURT: Very good. Okay.

8 (Whereupon, these proceedings concluded at 12:06 p.m.)

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I N D E X

T E S T I M O N Y

DEBTOR'S

WITNESS

EXAM BY

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C E R T I F I C A T I O N

I, Sherri L. Breach, certify that the foregoing
transcript is a true and accurate record of the proceedings.

Sherri L.
Breach

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